

Amendment No. 1 to SB2850

Bailey
Signature of Sponsor

AMEND Senate Bill No. 2850

House Bill No. 2434*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 66, is amended by adding the following new chapter:

66-33-101. Short title.

This chapter is known and may be cited as the "Residential Amenities Sharing Act."

66-33-102. Chapter definitions.

As used in this chapter:

(1) "Dedictory instrument":

(A) Means a document governing the establishment, maintenance, or operation of a residential subdivision, planned unit development, condominium, horizontal property regime, or similar planned development; and

(B) Includes a declaration or similar instrument subjecting real property to:

(i) Restrictive covenants, bylaws, or similar instruments governing the administration or operation of a homeowners' association;

(ii) Properly adopted rules and regulations of a homeowners' association; or

- (iii) All lawful amendments to the covenants, bylaws, instruments, rules, or regulations of a homeowners' association;
- (2) "Effectively prohibit" means a local governing body acts or fails to act in a manner that prevents a property owner from using the owner's property as a residential amenities sharing unit after reasonable compliance with generally applicable local laws;
- (3) "Generally applicable local law" means an ordinance, resolution, regulation, rule, or other requirement of a type other than zoning enacted, maintained, or enforced by a local governing body that applies to all property or use of all property and does not apply only to property used as a residential amenities sharing unit;
- (4) "Homeowners' association" means an incorporated or unincorporated association owned by or whose members consist primarily of the owners of the property covered by the dedicatory instrument and through which the owners, or the board of directors or similar governing body, manage or regulate the residential subdivision, planned unit development, condominium, horizontal property regime, or similar planned development;
- (5) "Local governing body" means the legislative body of a city, municipality, county, or other political subdivision of this state that:
- (A) Has authority to enact a zoning ordinance, resolution, regulation, rule, or other requirement of a type regarding land use in its jurisdiction; and
- (B) Employs at least one (1) full-time or part-time law enforcement officer, as defined in § 39-11-106;
- (6) "Primary residence" means a property or residential dwelling that is owned by a person who resides at the property or residential dwelling a majority of the days in a twelve-month period;

(7) "Prohibit" means to forbid or ban the operation of a residential amenities sharing unit, either permanently or temporarily, within a local governing body's jurisdiction, portion of the local governing body's jurisdiction, or a portion of an owner's property;

(8) "Property" means a tract of land recorded with the register of deeds office of the county where the property is located and that is not otherwise subject to the Hotel and Public Swimming Pool Inspection Act, compiled in title 68, chapter 14, part 3;

(9) "Residential amenities sharing platform" or "platform" means a company that coordinates residential amenities sharing providers to rent their units to consumers;

(10) "Residential amenities sharing provider" or "provider" means a person engaged in renting a residential amenities sharing unit;

(11) "Residential amenities sharing unit" or "unit" means a property or residential dwelling that:

(A) Is a provider's primary residence;

(B) Is partially rented for a fee for a period of less than fifteen (15) continuous hours;

(C) Is rented for the same purpose and function as used or intended by the property owner; and

(D) Does not provide sleeping accommodations to transients; and

(12) "Restrictive covenant" means a covenant, condition, or restriction contained in a dedicatory instrument, whether mandatory, prohibitive, permissive, or administrative.

66-33-103. Local regulation of residential amenities sharing units.

(a) Except as provided in subsection (b), a local governing body shall not prohibit or effectively prohibit the use of property as a residential amenities sharing unit.

(b)

(1) A local governing body may, by resolution or ordinance, regulate residential amenities sharing providers by:

(A) Requiring a provider to register a unit with the local governing body. The local governing body shall not refuse registration unless the provider fails to comply with a regulation permitted by this subdivision

(b)(1). A local governing body may require a provider to provide the following registration information:

(i) The name, street address, mailing address, email address, and telephone number of the residential amenities sharing unit provider;

(ii) The street address of the residential amenities sharing unit;

(iii) Proof of liability insurance for the unit; and

(iv) Affirmation by the provider that operating the unit as a residential amenities sharing unit does not violate a covenant, condition, restriction, bylaw, or other regulation contained in, or promulgated pursuant to, a dedicatory instrument;

(B) Requiring a provider to pay an annual fee of not more than fifty dollars (\$50.00) for the registration of each unit;

(C) Requiring that a platform maintain no more than one million dollars (\$1,000,000) in liability insurance to cover damage done or suffered by a person renting a unit from a provider;

(D) Prohibiting:

(i) The preparation or service of food to a person for consideration by a provider in the unit; and

(ii) A provider from offering sleeping accommodations to transients;

(E) Enforcing generally applicable local laws related to parking, noise, and other nuisance activity;

(F) Imposing reasonable limitations on the maximum occupancy of a unit based on the property size;

(G) Imposing reasonable limitations on the hours of the day and days of the week during which a unit may be rented;

(H) Imposing reasonable limitations on the number of occurrences within a twelve-month period that a unit may be rented using a platform; or

(I) Requiring a provider to provide proof of written notification to an owner of a property that shares a physical boundary with the residential amenities sharing unit.

(2) This chapter does not prevent a local governing body from prohibiting the continued use of property as a residential amenities sharing unit if, as a direct result of the operation of the residential amenities sharing unit, the unit has been in violation of a generally applicable local law. The burden of proof that a violation of a generally applicable local law was a direct result of the operation of the residential amenities sharing unit is on the local governing body. If a provider has exhausted all appeal rights for a violation of a generally applicable local law, then the local governing body may impose the following penalties:

(A) For a first violation, a prohibition on the use of the property as a residential amenities sharing unit for a period not to exceed thirty (30) days;

(B) For a second violation, a prohibition on the use of the property as a residential amenities sharing unit for a period not to exceed ninety (90) days; and

(C) For a third violation, a permanent prohibition on the use of the property as a residential amenities sharing unit.

(3) A local governing body may maintain a website that lists the address of each residential amenities sharing unit registered within the local governing body's jurisdiction. The website may also provide a mechanism for consumers to file online complaints regarding a provider or unit.

66-33-104. Application of chapter.

This chapter does not apply to:

(1) The regulation of property under the Short-Term Rental Unit Act, compiled in title 13, chapter 7, part 6;

(2) A local governing body regulation of the rental of residential property other than short-term rental units that was in effect before the effective date of this act; or

(3) Contracts or agreements between or among individuals or private entities related to the use of or restrictions upon real property, including, but not limited to, a dedicatory instrument; recorded declarations and covenants; the condominium instruments of a condominium created pursuant to the Tennessee Condominium Act of 2008, compiled in chapter 27, part 2 of this title; the declaration of a common interest community created pursuant to the Horizontal Property Act, compiled in chapter 27, part 1 of this title; or another declaration of a common interest community property or owners' association created pursuant to the Tennessee Nonprofit Corporation Act, compiled in title 48, chapters 51-68.

SECTION 2. Tennessee Code Annotated, Section 68-14-322, is amended by deleting the section and substituting:

This part does not apply to:

(1) Privately owned swimming facilities that are constructed upon private property by a group of no more than twenty (20) households; or

(2) Residential amenities sharing units, as defined in § 66-33-102.

SECTION 3. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in a compilation or publication containing this act.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.